

820 KAR 1:130. Administrative actions.

RELATES TO: KRS 238.510, 238.515(6), 238.530, 238.555, 238.560(3), 238.995

STATUTORY AUTHORITY: KRS 238.515(6), (9), 238.560(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(6) and 238.560(3) authorize the Department of Charitable Gaming to take appropriate disciplinary action against persons who do not operate in compliance with KRS Chapter 238 and the administrative regulations promulgated thereunder. KRS 238.560(3) directs the department to promulgate an administrative regulation to classify administrative offenses and describe the recommended penalties and other administrative actions for those offenses. This administrative regulation establishes the required classifications and penalties.

Section 1. (1) The department may issue a letter of reprimand or a cease and desist order to any license holder for any violation of KRS Chapter 238 or 820 KAR Chapter 1.

(2) The department shall impose this administrative action in accordance with KRS 238.560(3) if the department determines that the action will deter future violations and promote efforts to correct the violation cited.

Section 2. The department may assess fines against any license holder in accordance with the following schedule. All fines shall be assessed in accordance with KRS 238.560(3).

(1) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to charitable gaming recordkeeping and reporting requirements, except for failure to file quarterly reports as required in 820 KAR 1:025, shall be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during the same year shall be subject to a fine not to exceed \$1,000 for each offense.

(2) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to the conduct of charitable games, including conducting unauthorized games, participation by unauthorized persons, violations of rules of play for bingo, charity game tickets, raffles, games of chance approved for charity fundraising events, and special limited charitable games, shall be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during the same year shall be subject to a fine not to exceed \$1,000 for each offense.

(3) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to manufacture, packaging, and distribution of charitable gaming supplies and equipment shall be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during the same year shall be subject to a fine not to exceed \$1,000 for each offense.

(4) A violation of the provisions of KRS 238.530(10) or 238.555(3) shall be subject to a fine not to exceed \$750 for each offense. A second or subsequent violation during the same year shall be subject to a fine not to exceed \$1,000 for each offense.

(5) A violation for conducting without a license any activity for which a license is required under KRS Chapter 238 and 820 KAR Chapter 1 shall be subject to a fine not to exceed \$1,000 for each offense.

(6) A violation for making false statements in reports or other documents submitted to the department, including quarterly reports, license applications or records of charitable gaming sessions and events, shall be subject to a fine not to exceed \$1,000 for each offense.

(7) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to diversion of net receipts from authorized expenses or charitable purposes, unlawful compensation to an individual involved in the conduct of charitable gaming, or any other inurement of net receipts to the

private benefit or financial gain of an individual or person, shall be subject to a fine not to exceed \$1,000 for each offense.

(8) A violation of KRS 238.510(5) relative to gambling offenses committed on licensed charitable gaming premises or in conjunction with charitable gaming shall be subject to a fine not to exceed \$1,000 for each offense.

(9) Any other violation of KRS Chapter 238 or 820 KAR Chapter 1 for which a fine is not established in this section shall be subject to a fine not to exceed \$1,000 for each offense.

Section 3. The department may impose upon any license holder a term of probation for any violation of KRS Chapter 238 or 820 KAR Chapter 1. The department may impose this administrative action, in accordance with KRS 238.560(3), if it determines that department oversight and monitoring of the license holder's activities will promote efforts to correct the cited violation and deter future violations.

Section 4. The department may revoke, suspend or deny a license or application for license for any violation of KRS Chapter 238 or 820 KAR Chapter 1 under the following circumstances:

(1) The department shall revoke or deny a license if:

(a) An applicant or license holder or individual associated with the applicant or license holder in a capacity listed in KRS 238.525(3) has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995, or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B during the term of licensure;

(b) A license holder fails to file any reports required pursuant to KRS Chapter 238 or 820 KAR Chapter 1;

(c) A license holder, upon notice of delinquency, fails to remit to the department of the charitable gaming fee required pursuant to KRS 238.570(1); and

(d) With respect to license renewal applications, a license holder fails to fulfill any requirement, qualification or eligibility restriction for licensure set forth in KRS Chapter 238 or 820 KAR Chapter 1.

(2) The department may revoke, suspend or deny the license or application of a charitable organization, a manufacturer, a distributor or a facility for violations of KRS Chapter 238 or 820 KAR Chapter 1 if the nature, frequency and severity of the offenses charged, and the license holder's or applicant's history of previous violations, demonstrate an unwillingness or inability to operate in compliance with the law.

Section 5. The department shall issue a written notice of violation to a license holder determined to have violated provisions of KRS Chapter 238 or 820 KAR Chapter 1. This notice shall be provided on a Form CG-NOV, Notice of Violation(s). Any Notices of Violation issued to a license holder shall be considered by the department in evaluating the license holder's history of previous violation. A Notice of Violation shall state the provisions alleged to have been violated and shall notify the license holder that the department may take administrative action against the license holder as a result of the violations.

Section 6. A person shall submit a request, in writing, to the department to initiate an investigation of an alleged violation.

Section 7. Incorporation by Reference. (1) Form CG-NOV, "Notice of Violation(s)", 07/01, is incorporated by reference.

(2) This material may be inspected, obtained, or copied, subject to applicable copyright law,

at the Department of Charitable Gaming, Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 1539; Am. 2039; eff. 3-13-2002; TAm eff. 8-9-2007; 42 Ky.R. 960; eff. 1-4-2016.)